
State Board of Equalization

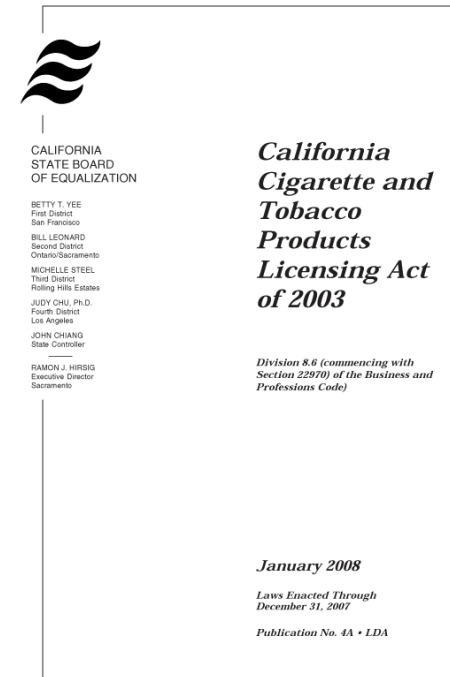
Retail Sales of Cigarettes and Tobacco Products in California

What All Retailers Should Know



California Cigarette and Tobacco Products Licensing Act

- Effective January 1, 2004.
- For sellers of cigarette and tobacco products in California, the Act established, among other things:
 - Licensing requirement
 - Invoice requirements
- Increased the Board of Equalization's (BOE) administrative responsibilities regarding cigarette and tobacco tax laws.



Licensing

- To sell cigarettes or tobacco products at retail, you must apply for a Cigarette and Tobacco Products Retailer's License for each location.
- This state license is separate from any local city tobacco licenses required.
- You will receive an application for a license when you apply for your seller's permit or you may call the Excise Taxes Division at 800-400-7115.
- The current one-time fee is \$100 per location.



Licensing

- The license is valid for a 12-month period and required to be renewed annually.
- A reinstatement fee of \$100 is required if a license is not renewed timely.
- If adding a location, the new location must be added to the seller's permit before a cigarette and tobacco product license can be activated for the new location.



Licensing

- Submitting an application and fee does not mean sales of cigarettes or tobacco products can begin. The retailer must be in possession of the license and it must be displayed.
- Applications are promptly processed but may take 2 to 4 weeks for a license to be issued.
- A license is not assignable or transferable.



Licensing

Wholesaler or Distributor License

- A Retailer's cigarette and tobacco license allows you to make retail sales only to legal-aged consumers.
 - To engage in sales of cigarette and tobacco products to other retailers or wholesalers, you must obtain a separate Distributor or Wholesaler License. Sales to other retailers, wholesalers, or distributors are illegal if you are not properly licensed.
 - For more information on obtaining a Distributor or Wholesaler License, contact the Excise Taxes Division.
-

Inspections

- BOE routinely conducts inspections of all businesses selling cigarettes and/or tobacco products.
- Inspections are unscheduled but are conducted during normal business hours.
- Inspections are conducted by the Investigations Division staff of the BOE.



Inspections



Inspectors will:

- Identify themselves, show their BOE identification, and give their business card.
 - Explain why they are there and what they will be inspecting.
 - Ask the person behind the counter for identification and their relation to the business (i.e., owner, relative, employee, etc.).
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Inspections

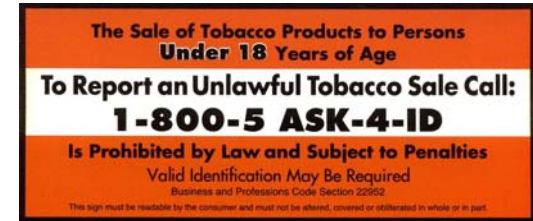
Inspectors will also:

- Ask where cigarette and tobacco products are stored and request permission to inspect these areas.
- Request access to any secured cigarette/tobacco storage areas.
- Check to see that the cigarette/tobacco retailer's license (LRQ) and seller's permit are posted.
- Verify that registration information for the business is accurate.



Inspections

- Verify the STAKE Act sign is posted. If not visible, they will provide a sign.
- Check to see that single sticks of cigarettes are not being sold.
- Check that all cigarette packs are stamped and scan the stamps to verify that the tax stamps are valid.
- Verify all cigarettes are on the California Tobacco Directory.



California Tobacco Directory

Only cigarette brands and roll-your-own tobacco products listed in the Attorney General's California Tobacco Directory may be:

- sold
- offered for sale, or
- possessed for sale in California

For the current list of tobacco product manufacturers and brand families that are certified as being in compliance with California law, go to the Attorney General's website at:

<http://ag.ca.gov/tobacco/directory.htm>



Inspections

We will also:

- Verify that all cigarettes comply with AB 178 – the California Cigarette Fire Safety and Firefighter Protection Act.
- As of January 1, 2007, only cigarettes certified by the manufacturer and approved by the Office of the State Fire Marshall as self-extinguishing may be sold in California.



Inspections



You can also expect us to:

- Ask for the last 12 months of purchase invoices for cigarette and tobacco products.
- Verify that excise tax is paid on all tobacco products.

Note: All tobacco products are considered untaxed unless proof of excise taxes paid is provided.

Inspections

The inspectors will also:

- Reconcile your purchase invoices with the cigarette and tobacco inventory on hand.
- Verify invoices are valid and are from a licensed distributor/wholesaler.

Note: You can determine if a distributor's or wholesaler's license is valid on the BOE's website at:

www.boe.ca.gov



Invoices

A valid cigarette or tobacco product purchase invoice must be legible and contain:

- The name, address, telephone number, and license number of the wholesaler/distributor from whom the cigarettes and/or tobacco products were purchased.
 - Retailer's name, address, and license number.
 - The amount of CA excise taxes paid.
 - An itemized list of products purchased.
 - Date of purchase.
-

Sample of a Valid Purchase Invoice

MELISSA'S WHOLESALE

123 Wholesale Avenue
Anytown, CA 95000
(222) 555-1234
LD Q ET 90-000000

Invoice

Number 1066

Date: June 1, 2008

Bill To:

Joanna Shopkeeper
Linda's Smoke Shop
456 Smokey Drive
Anycity, CA 96000
LR Q ET 91-999999

Ship To:

Joanna Shopkeeper
Linda's Smoke Shop
456 Smokey Drive
Anycity, CA 96000
LR Q ET 91-999999

Description	Quantity	Price Each	Amount
COPENHAGEN	81.00	41.99	3,401.19
COPENHAGEN LONGCUT	63.00	20.99	1,322.37
COPENHAGEN POUCH	10.00	20.99	209.90
SKOAL STRAIGHT	9.00	41.99	377.91
SKOAL WINTERGREEN	9.00	41.99	377.91
SKOAL MINT	9.00	41.99	377.91
SKOAL FINECUT	9.00	41.99	377.91
Subtotal			6,445.10
Excise Tax			2,908.68
TOTAL			\$ 9,353.78

0 – 30 days	31 – 60 days	61 – 90 days	> 90 days	Total
\$9,353.78				\$9,353.78

Invalid Invoice

Reasons this invoice is not valid:

- Missing distributor or wholesaler information from whom the cigarettes and/or tobacco products were purchased.
- Missing the retailer's address and license number.
- The amount of excise tax paid is not listed on the invoice.

04354

10/02/07 12:45 PM

CUSTOMER'S ORDER NO. [REDACTED] DEPARTMENT [REDACTED]

NAME [REDACTED]

ADDRESS [REDACTED]

CITY, STATE, ZIP [REDACTED] SANTA ROSA

SOLD BY [REDACTED] CASH [REDACTED] C.O.D. [REDACTED] CHARGE [REDACTED] ON ACCT. [REDACTED] MOSE RETD [REDACTED] PAID OUT [REDACTED]

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1			
2	COPENHAGEN SNUFF	46.25	96.25
3			
4			
5	2 COPENHAGEN C.C.	23.27	96.54
6			
7			
8			
9	2 ZIGAN/5PK	31.00	68.00
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

RECEIVED BY [REDACTED]

KEEP THIS SLIP FOR REFERENCE

5805

Seizures

Seizures of cigarettes or tobacco can occur for many reasons, including:

- Counterfeit, counterfeit-stamped, unstamped, or out-of-state stamped cigarettes.
- Cigarettes “Not for Sale in U.S.”
- Cigarettes not listed in the Attorney General’s CA Tobacco Directory.
- Untaxed Tobacco:
 - Products purchased from an unlicensed out-of-state supplier.
 - Products not supported by valid purchase invoices.



Seizures

Products will also be seized if:

- Cigarettes or tobacco products are sold while a cigarette and tobacco license is suspended or revoked.
- There is continued unlicensed sales of cigarettes or tobacco.

Note: Products seized for continued unlicensed sales or during a period of suspension or revocation are deemed forfeited to the state.



Top Two Reasons for Cigarette Seizures

- Unstamped cigarettes.
- Counterfeit stamped cigarettes.



Seizures

What happens if products are subject to seizure?

- The BOE inspector will take a physical inventory of what is to be seized and list the products seized on the *Receipt for Property Seized* form. The form includes:
 - Date and time of seizure
 - Name and signature of BOE inspector seizing the product
 - Name of the owner of items seized (i.e., sole proprietor, LLC, corporation, etc.) and business address where seizure occurred



Seizures

The *Receipt* also includes:

- Name of the person in control of the property (may be owner or employee), their address and signature.
- **Note:** Signing the Receipt does not waive any petition rights; it only confirms that what is listed on the seizure form is accurate.
- Details of items seized; this will include a description of the product, quantities of each, and the reason for the seizure.
- A copy of the *Receipt* will be provided at the time of the seizure.



BOE-1317 REV. 2 (7-05)
RECEIPT FOR PROPERTY SEIZED

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

CERTIFICATION

As representative of the State Board of Equalization, I hereby certify that the items described below have been seized. You will receive a Notice of Seizure (BOE-1238) in the mail regarding this receipt from the Board of Equalization that will provide information about the seizure and your appeal rights.

DATE OF SEIZURE	TIME OF SEIZURE
BOARD REPRESENTATIVE'S NAME AND TITLE	SIGNATURE OF BOARD REPRESENTATIVE
OWNER OF ITEMS SEIZED (name and address)	
PERSON IN CONTROL OF PROPERTY (name and address)	
SIGNATURE OF PERSON IN CONTROL OF PROPERTY	
BUSINESS NAME AND ADDRESS OF PLACE OF SEIZURE	

DESCRIPTION OF ITEMS SEIZED	
QUANTITY	DESCRIPTION

ACKNOWLEDGMENT

<i>I acknowledge receipt of the above property.</i>		
NAME OF SUPERVISOR/EVIDENCE CUSTODIAN	SIGNATURE OF SUPERVISOR/EVIDENCE CUSTODIAN	DATE
A PETITION FOR RELEASE OR RECOVERY OF THE ABOVE PROPERTY WAS:		
<input type="checkbox"/> Not Filed <input type="checkbox"/> Denied		
<i>I approve destruction of the above property.</i>		
NAME OF SUPERVISOR	SIGNATURE OF SUPERVISOR	DATE
<i>I acknowledge receipt and certify the destruction of the above property.</i>		
MANNER OF DESTRUCTION		
NAME OF BOARD REPRESENTATIVE	SIGNATURE OF BOARD REPRESENTATIVE	DATE
NAME OF BOARD REPRESENTATIVE (witness)	SIGNATURE OF BOARD REPRESENTATIVE (witness)	DATE

White – Board of Equalization File Copy Canary – To Originator of BOE-1317 Pink – To Signatory

Seizures



When inspectors seize cigarette or tobacco products, the BOE is required to notify business owners in writing:

- That their product was seized.
- When it occurred.
- What was seized.
- Their petition rights.

This information is mailed to the business owner(s) with the *Notice of Seizure and Forfeiture*.

Seizures

The Notice will be mailed to:

- The business mailing address for sole proprietors.
- The business mailing address and personal residence of each partner in a partnership.
- The business mailing address and agent of service as listed with the Secretary of State for a corporation or LLC.

A petition form for the release of property seized is included with the *Notice*.



Seizures

To request the return of property seized, a Verified *Petition for Release or Recovery of Property* must be filed in writing within **20 days** from the date of the *Notice of Seizure and Forfeiture*.

Note: The Board of Equalization is not legally permitted to return seized cigarettes or tobacco products unless they were erroneously or illegally seized.



Seizures

- If cigarettes or tobacco products are seized due to continued “unlicensed” sales or sales during a period of suspension or revocation, a BOE-881, *Property Receipt* is issued.
- The inspector will fully explain the reason for this type of seizure.

Note: Products seized under these circumstances are deemed forfeited to the State and may not be petitioned for their return. Products legally forfeited to the State are not returnable.



Public Notice of Seizure

The BOE is required to publicly notice the seizure of cigarette or tobacco products when:

- The seizure is 61 or more cartons of cigarettes,
- The wholesale cost of tobacco products seized is equivalent to 61 cartons of cigarettes, or
- The combined value of cigarettes and tobacco products seized is equivalent to 61 cartons of cigarettes.

Notice of Seizure Website:

www.boe.ca.gov/news/seizurecigtoboprod.htm

What happens to seized product?



- Seized property is stored in a secured area as evidence.
- When the petition process is complete and no further action is necessary, the evidence custodian will destroy forfeited products.
- The time between seizure and destruction of property seized will vary depending on the circumstances of the seizure and/or length of petition process.

Citations

If during an inspection process, violations of the cigarette and tobacco tax laws are noted, a citation may be issued by the inspector.



What is a citation?

- A citation is a “civil” or a “criminal” notice for violations of the law.
- Citations may be issued for violation of the:
 - Cigarette and Tobacco Licensing Act
 - California Cigarette and Tobacco Tax Laws
 - Sales and Use Tax Laws



Civil Citation Form

BOE-98 REV. 1 (11-05)
CIVIL CITATION

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

No. 04179

DATE ISSUED / /	TIME <input type="checkbox"/> AM <input type="checkbox"/> PM	DAY OF WEEK S M T W Th F S	BOE-99 ATTACHED <input type="checkbox"/> YES <input type="checkbox"/> NO Serial No.
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BUSINESS INFORMATION

CA SELLER'S PERMIT NO.		CIGARETTE/TOBACCO SELLER'S LICENSE NO.	
PRINT NAME (first, middle, last)		TITLE	
DRIVER LICENSE NO./STATE		RESIDENCE TELEPHONE NO. ()	
RESIDENTIAL OR BUSINESS ADDRESS (street, city, state, zip code)			
MAILING ADDRESS (if different from above)		CITY	STATE ZIP
BUSINESS NAME (DBA)		BUSINESS TELEPHONE NO. ()	

VIOLATION INFORMATION

CODE AND SECTION	DESCRIPTION
PROPERTY SEIZED	
LOCATION OF VIOLATION(S) (street, city, zip)	
COUNTY OF OCCURRENCE	

You will receive a notice in the mail regarding this citation from the Board of Equalization that will provide information about any restrictions or fines, if applicable, and your appeal rights. Contact information will be provided in the notice should you have any questions.

Without admitting guilt, signature acknowledges receipt of this citation.

OWNER SIGNATURE (or authorized representative)	DATE
CITATION ISSUED BY (print)	TITLE
SIGNATURE OF ISSUER	DATE
Type of Service <input type="checkbox"/> Personal <input type="checkbox"/> Substitute <input type="checkbox"/> Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail	

COMMENTS:

Original – Excise Taxes and Fees Division
Pink – Investigations Division Yellow – Business Owner

Most Common Violations Cited

- Purchase invoices for 1 year not available at retail location.
- Selling cigarettes/tobacco without a license.
- Sale or possession of untaxed tobacco products.
- Failure to display license.



How can violations be avoided?

- Make sure your cigarette/tobacco license is displayed.
- Keep 12 months of valid purchase invoices on the premises. Invoices should show excise taxes paid.
- Buy from licensed distributors/wholesalers.
- Sell only cigarettes and roll-your-own tobacco products that are listed on the California Tobacco Directory.

MUST BE DISPLAYED CONSPICUOUSLY AT LOCATION ADDRESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

**CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003
RETAILER'S LICENSE**

LICENSE NUMBER: _____

BUSINESS MAILING ADDRESS: _____

EFFECTIVE DATE: _____

LOCATION ADDRESS: _____

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER DIVISION 8.6 (COMMENCING WITH SECTION 22970) OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE.
NOT VALID AT ANY OTHER LOCATION ADDRESS.

IS HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS.
THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL SUSPENDED, REVOKED, OR CANCELED, AND IS NOT TRANSFERABLE.
FOR GENERAL TAX QUESTIONS PLEASE TELEPHONE OUR INFORMATION CENTER AT 800-400-7115.
FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYERS' RIGHTS ADVOCATE OFFICE AT 888-324-2798 OR 916-324-2798.
BOE-442-LR REV. 2 (5-07)

A MESSAGE TO OUR LICENSE HOLDER

As a retailer, you have certain rights and responsibilities under the Cigarette and Tobacco Products Licensing Act of 2003. In order to assist you in your endeavor and to better understand the law, we offer the following informational sources:

- The Cigarette and Tobacco Products Licensing Act of 2003 found under Division 8.6 (commencing with section 22970) of the California Business and Professions Code.
- Our website at www.boe.ca.gov
- Our toll-free Information Center at 800-400-7115.

As a retailer, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a Board representative when requested. In addition, you must keep the records on file at the location identified on your license for at least one year after the date of purchase. Specific requirements are set forth in the Cigarette and Tobacco Products Licensing Act of 2003.

You must notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a partner, officer, or member, or when you are moving any or all of your business locations. This license is valid only for the type of ownership and location specified on the license. A person who obtains a license as a retailer who ceases to do business, or who never commenced business, or whose license has been suspended or revoked, shall also notify the Board immediately by writing to the State Board of Equalization, Excise Taxes Division, P.O. Box 942879, Sacramento, CA 94279-0056 in order to make arrangements to surrender the license, or by giving the license to a Board representative.

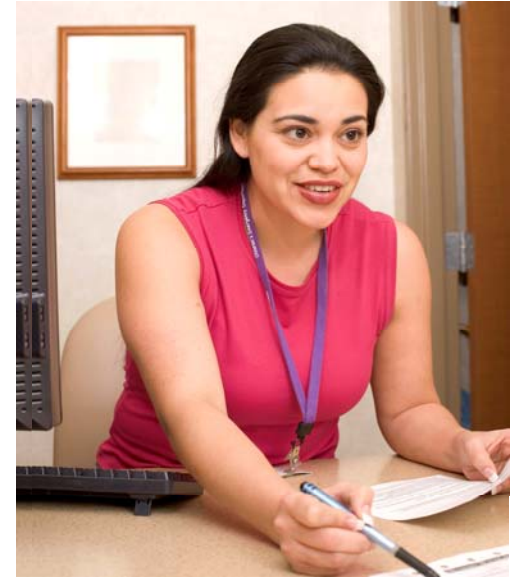
If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayers' Rights Advocate office for help by calling, 888-324-2798 or 916-324-2798. Their fax number is 916-323-3319.

License must be displayed at location address for which issued and must be visible to your customers.

STATE BOARD OF EQUALIZATION
Excise Taxes Division

What happens when a citation is issued?

- The BOE inspector will fully explain why the citation is issued and the specific section(s) of law violated.
- Civil citations are handled by the BOE Excise Taxes Division.
- Criminal citations are processed through the Courts.
- The inspector will explain the citation process to you, including your right to appeal.



Penalties and Fines

Depending on the violations cited, penalties may include but are not limited to:

- A Warning Notice.
- Suspension or revocation of license.
- Fines up to \$50,000.
- Imprisonment not to exceed 1 year.
- Both fines and imprisonment.

The level of penalty imposed as a result of a civil or criminal citation will depend on type of violation and frequency of offense.

Penalties and Fines

In the case of criminal citations:

- Additional civil penalties may be assessed by the BOE in addition to penalties imposed by the court.
- These additional penalties may include suspension or revocation of the cigarette and tobacco license and possible fines.
- Civil fines assessed by the BOE will be reduced by any court fines imposed.



Suspended License

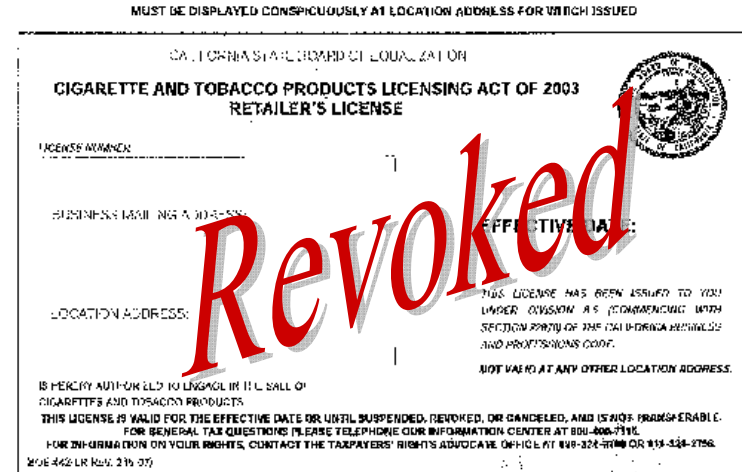
- A suspended cigarette and tobacco license prohibits the sale of cigarettes or tobacco products at the business location cited.
- Suspensions may range from 10 to 30 days.
- The BOE website lists businesses with suspended Cigarette and Tobacco Product Licenses.

www.boe.ca.gov/sptaxprog/spexcise.htm

Revoked License

Selling cigarettes or tobacco products while a cigarette and tobacco license is suspended will result in the revocation of the license.

- Revocations are:
 - Location specific.
 - For a minimum of 6 months.



Revoked License

Revocation of a cigarette and tobacco product license will also occur:

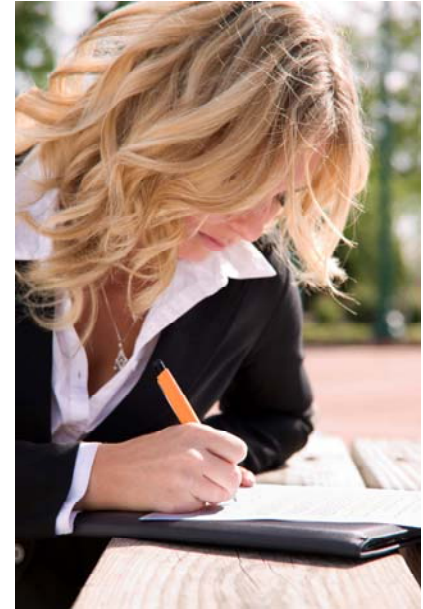
- When a seller's permit becomes revoked.
- For a felony conviction.

Example:

- Counterfeiting tax stamps.
 - Tax evasion of \$25,000 or more in tax in 12 consecutive months.
 - Any permit revoked under any provisions of the Revenue and Taxation Code.
-

Appeals

- If a citation is issued, a *Warning Notice* or a *Notice of Violation* is mailed by the Excise Taxes Division.
- Taxpayer appeal rights are described in the *Notice*.
- A written request to appeal must be received within 10 days from the date of the *Notice*.
- If the request is not received timely, the appeal may not be granted and the violation will remain on record.



Appeals

- There are two levels of appeals.
- The first level of appeal is a conference conducted by a Hearing Officer of the Excise Taxes Division.
- A representative of the Investigations Division is included in these conferences.
- All appeal conferences are conducted by telephone.



Appeals

A *Notice of Decision* is mailed by the Excise Taxes Division within 4 to 6 weeks after the first level appeal conference.



- If there is disagreement with the outcome of the first level decision, the decision may be appealed within 10 days from the date of the *Notice* for a second level conference.
- The second level conference is held by the Appeals Division of the BOE.

Appeals

- The Appeals Division will issue a *Notice of Decision* of the outcome of the second level appeal conference.
 - The decision of this appeal conference is final unless the outcome is a revocation or a fine over \$2,500.
 - Revocations and fines over \$2,500 may be appealed for a hearing before the BOE's elected Board.
 - The Board Hearing is the final step of the appeal process with the BOE.
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For more information...

The following publications are available on the BOE website:

www.boe.ca.gov

- BOE-400-LR, *Application for Retailer's Cigarette and Tobacco Products License*
- Pub 78, *Sales of Cigarettes and Tobacco Products in California*
- Pub 93, *Cigarette and Tobacco Product Taxes*
- Pub 152, *Cigarette and Tobacco Product Inspections*
- Pub 161, *Criminal Citations Include a Civil Administration Process*

Note: Some publications are available in multiple languages.

E-mail Notifications



To get the latest information on changes or updates related to the sales of cigarette and tobacco products, you can register for E-mail notification at the BOE website listed below. As information becomes available, notices will be automatically e-mailed to you.

<http://www.boe.ca.gov/sptaxprog/etfd/index.htm>

Contact information...

- **For information regarding licenses, civil citations, petitions, or appeals:**

Excise Taxes Division, MIC:56
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0056

Phone: 800-400-7115
Fax: 916-323-9297

- **For information regarding inspections, seizures, or criminal citations:**

Investigations Division, MIC:42
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0042

Phone: 916-324-0105
Fax: 916-324-1578
